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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2011-180**

12 **MINERVA ZUBIATE BACA**
13 2907 N. Venus Place
14 Boise, ID 83704

ACCUSATION

15 **Registered Nurse License No. 676868**

16 Respondent.

17
18 Louise R. Bailey, M.Ed., RN ("Complainant") alleges:

19 **PARTIES**

20 1. Complainant brings this Accusation solely in her official capacity as the Interim
21 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer
22 Affairs.

23 2. On or about March 30, 2006, the Board issued Registered Nurse License Number
24 676868 to Minerva Zubiate Baca ("Respondent"). The license was in full force and effect at all
25 times relevant to the charges brought herein and will expire on October 31, 2011, unless renewed.

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REGULATORY PROVISIONS

8. California Code of Regulations, title 16, section 1442, states:

"As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life."

9. California Code of Regulations, title 16, section 1443.5 states, in pertinent part:

"A registered nurse shall be considered to be competent when he/she consistently demonstrates the ability to transfer scientific knowledge from social, biological and physical sciences in applying the nursing process, as follows:

(5) Evaluates the effectiveness of the care plan through observation of the client's physical condition and behavior, signs and symptoms of illness, and reaction to treatment and through communication with the client and health team members, and modifies the plan as needed."

COST RECOVERY

10. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

DRUGS

11. "Dilaudid," a brand of hydromorphone, is a Schedule II controlled substance as designated by Health and Safety Code section 11055(b)(1)(K).

FIRST CAUSE FOR DISCIPLINE

(Falsified, Made Incorrect or Inconsistent Entries In Hospital or Patient Records)

12. Respondent is subject to discipline under Code section 2761(a), on the grounds of unprofessional conduct as defined in Code section 2762(e), in that on or about June 17, 2008, and June 18, 2008, while employed as a registered nurse at Rideout Memorial Hospital, located in

1 Marysville, California, Respondent falsified, made grossly incorrect, grossly inconsistent or
2 unintelligible entries in hospital or patient records in the following respects:

3 Patient A:

4 a. On or about June 17, 2008 Patient A's physician wrote orders for Patient A that
5 included the administration of pain medication, Dilaudid, at the rate of 1mg every two hours as
6 needed for break through pain. On or about June 18, 2008 Respondent assumed care of Patient A
7 at 1045. At or about 1200, Respondent withdrew a 2mg injectable dose of Dilaudid from
8 Acudose and either administered 1mg of Dilaudid and failed to properly chart wasting of the
9 additional 1 mg of Dilaudid or administered and charted the administration of 2 mgs of Dilaudid.
10 By administering two (2) mgs of Dilaudid, Respondent furnished a controlled substance in excess
11 of the dose authorized by the physician's written order.

12 b. On or about June 18, 2008, at 1359 hours, Respondent withdrew one (1) 2 mg.
13 injectable of Dilaudid from Acudose. Respondent charted the administration of 2 mg. of Dilaudid
14 at 1400 hours on the patient's Medication Administration Record ("MAR") and nursing flow
15 sheet. By administering 2mgs of Dilaudid, Respondent furnished a controlled substance in excess
16 of dose authorized by the physician's written order as set forth in paragraph "a" above.

17 c. On or about June 18, 2008, at 1534 hours, Respondent withdrew one (1) 2 mg.
18 injectable of Dilaudid from Acudose. Respondent charted the administration of 2 mg. of Dilaudid
19 at 1530 hours on the patient's MAR but failed to make the same entry on the nursing flow sheet.
20 By administering of 2 mg. of Dilaudid, Respondent furnished a controlled substance in excess of
21 the dose authorized by the physician's written order set forth in paragraph "a" and administered
22 prior to the time authorized by the physician's written order.

23 d. On or about June 18, 2008, at 1753 hours, Respondent withdrew one (1) 2 mg.
24 injectable of Dilaudid from Acudose. Respondent charted the administration of 2 mg. of Dilaudid
25 at 1745 hours on the patient's MAR and nursing flow sheet. By administering 2 mg. of Dilaudid,
26 Respondent furnished a controlled substance in excess of the dose authorized by the physician's
27 written order set forth in paragraph "a" above and administered prior to the time authorized by the
28 physician's written order.

1 e. On or about June 18, 2008 at 18:45 hours, Respondent withdrew one (1) injectable 2
2 mg Dilaudid from Acudose. Respondent charted the administration of 2 mgs of Dilaudid on the
3 MAR and nursing flow sheet. By administering 2 mgs of Dilaudid, Respondent furnished a
4 controlled substance in excess of the dose authorized by the physician's written order and
5 administered prior to the time authorized by the physician's order identified in paragraph "a"
6 above.

7 **Patient B:**

8 f. On or about June 18, 2008, Respondent withdrew one (1) 2 mg. injectable of Dilaudid
9 from Acudose at 0846. Respondent then charted the administration of 1 mg. of Dilaudid at 0800
10 hours on the patient's MAR, but failed to chart the administration of the Dilaudid in the patient's
11 nursing flow chart. Respondent's charting of the administration of the Dilaudid at 0800 is 46
12 minutes prior to the withdrawal of the Dilaudid from Acudose. Respondent then entered on
13 Acudose wasting 1 mg. of Dilaudid at 1241 hours. The wasting entry is 3 hours and 14 minutes
14 after withdrawing the Dilaudid.

15 g. On or about June 18, 2008, at 1130 hours, Respondent documented in the patient's
16 nursing flow chart, "PCA setup; pt. given 2 mg. loading dose." The Acudose records do not show
17 Respondent withdrawing Dilaudid at that time.

18 h. On or about June 18, 2008, at 1245 hours, Respondent documented in the patient's
19 nursing flow chart, "PRN med given." Acudose records do not show Respondent withdrawing
20 Dilaudid at that time.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Gross Negligence)**

23 13. Respondent is subject to discipline under Code section 2761(a)(1), on the grounds of
24 unprofessional conduct, in that on or about June 17, 2008, and June 18, 2008, while employed as
25 a registered nurse at Rideout Memorial Hospital, located in Marysville, California, Respondent
26 was grossly negligent in the following respects:
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1 i. Respondent failed to safeguard patients by failing to exercise the Five Rights of
2 medication administration, which are the right patient, right drug, right dose, right route, and right
3 time, as more particularly set forth above in paragraph 12.

4 j. Respondent falsified, made grossly incorrect, grossly inconsistent or unintelligible entries
5 in hospital or patient records, as more particularly set forth above in paragraph 12.

6 k. Respondent failed to exercise the standards of competent performance, as defined in
7 California Code of Regulations, title 16, section 1443.5(5), in that she failed to conduct patient
8 assessments pre/post administration of medication, as more particularly set forth above in
9 paragraph 12.

10 l. Respondent failed to administer medication pursuant to the physician's order, as more
11 particularly set forth above in paragraph 12.

12 **THIRD CAUSE FOR DISCIPLINE**

13 **(Unprofessional Conduct)**

14 14. Respondent is subject to discipline under Code section 2761(a), on the grounds of
15 unprofessional conduct, in that on or about June 17, 2008, and June 18, 2008, while employed as
16 a registered nurse at Rideout Memorial Hospital, located in Marysville, California, Respondent
17 demonstrated unprofessional conduct, as more particularly set forth above in paragraph 12
18 incorporated herein as though set forth at length.

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1 PRAYER

2 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 676868, issued to
5 Minerva Zubiata Baca;

6 2. Ordering Minerva Zubiata Baca to pay the Board of Registered Nursing the
7 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
8 Professions Code section 125.3; and,

9 3. Taking such other and further action as deemed necessary and proper.

10 DATED: _____

9/2/10

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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